

JAN 18 2019

A BILL FOR AN ACT

RELATING TO PRIVATE PROPERTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that albizia trees are an
2 invasive species that are prone to breaking and falling during
3 high winds and tropical storms. Fallen albizia trees caused
4 power outages and other structural damage on the island of
5 Hawaii during tropical storm Iselle in 2014. Albizia trees fell
6 over highways, roads, and driveways in such large numbers during
7 that storm that many people were left trapped in their homes and
8 rescue personnel were prevented from reaching them or, in some
9 cases, returning to their base of operations.

10 The legislature further finds that albizia trees located on
11 private properties often create hazardous conditions for
12 adjacent properties and that the development of these hazardous
13 conditions should be prevented wherever possible. Albizia trees
14 have been successfully eradicated on many properties, but some
15 property owners have been unresponsive to inquiries from owners
16 of adjacent properties.



1 The legislature therefore finds that property owners should
2 have the authority to enter adjacent properties to eradicate
3 albizia trees to prevent or address hazardous conditions,
4 subject to certain conditions.

5 SECTION 2. Chapter 708, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§708- Eradication of albizia trees on private property.

9 (a) An owner of real property or the owner's agent shall be
10 authorized to enter vacant real property that is privately owned
11 and directly adjacent to the entering owner's property to
12 eradicate one or more albizia trees located on the adjacent
13 property; provided that that the entering owner:

14 (1) Reasonably believes that the albizia trees on the
15 adjacent property:

16 (A) Create a condition that could become hazardous to
17 the entering owner's property or persons
18 thereupon if left untreated; and

19 (B) May be felled and removed or otherwise treated
20 according to current established methods without



1 damaging any structure, utility pole, or utility
2 line; and

3 (2) Has unsuccessfully made two or more reasonable
4 attempts within the previous thirty days to contact
5 the owner of record of the adjacent property via
6 telephone or registered mail.

7 (b) It shall be a defense to citation or prosecution under
8 sections 708-814, 708-815, 708-820, 708-821, 708-822, 708-823,
9 and 708-823.5 that the entering property owner or agent entered
10 an adjacent property for the purposes of and in compliance with
11 this section.

12 (c) As used in this section:
13 "Albizia tree" means any tree of the species *Falcataria*
14 *moluccana* or *Albizia chinensis*.

15 "Vacant" means improved or unimproved but having no
16 reasonable indication of use or maintenance for one year or
17 more."

18 SECTION 3. Section 708-816, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§708-816 Defense to trespass. It is a defense to**
21 **prosecution for trespass as a violation of sections 708-814 and**



1 708-815 that the defendant entered upon and passed along or over
2 established and well-defined roadways, pathways, or trails
3 leading to public beaches over government lands, whether or not
4 under lease to private persons[-], or for the purposes of and in
5 compliance with section 708- ."

6 SECTION 4. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect on July 1, 2019.

12 INTRODUCED BY:

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S.B. NO. 464

Report Title:

Private Property; Albizia Trees; Eradication; Safety

Description:

Authorizes a property owner or agent to enter adjacent property under certain conditions to eradicate albizia trees before they become hazardous. Provides defense to criminal prosecution.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

